

NEWS NOTES

of the Central Committee for Conscientious Objectors

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C.O.'s Contest ROTC

Students Challenge University Policy Denying C.O. Exemptions

Kenneth Hanauer, student at the University of Maryland at College Park, initiated legal action January 16 in Maryland district court for Prince George County, contesting the efforts of University officials to compel him to take military training (Air Force R.O.T.C.) or be dropped from the University.

Hanauer, a 24-year-old member of the Evangelical and Reformed Church and a native of Baltimore, had been classified as a C.O. by his draft board and had completed two years of compulsory civilian work required of all C.O.'s with a I-O classification.

When the academic year began last September, Hanauer entered the University as a third-year student in secondary education in order to take certain courses not available at any other state college in Maryland. He informed his adviser of his C.O. status and showed him his Certificate of Release given all C.O.'s upon completion of their civilian work. He was informed that he would be exempt from R.O.T.C. since he had completed his draft obligation.

Several weeks later, however, University officials informed Kenneth Hanauer that his exemption from R.O.T.C. was a mistake and that he must register for R.O.T.C. at the beginning of the next semester in February or get out of the University. Hanauer appealed to the University Regents who denied his request for exemption. He then filed a petition for a writ of mandamus to prevent the University from expelling him for refusing to comply with the R.O.T.C. requirement.

Contrary to Beliefs

In his petition before the court, Kenneth Hanauer argued that compelling him to take military training would be contrary to his religious beliefs and principles. Furthermore, it would be inconsistent with the findings of the Selective Service System that he is opposed to military training on religious grounds and should not be given military training.

Hanauer further argued that to exclude him from the state supported University except upon pain of relinquishing his religious beliefs and principles amounted to imposing a religious test as a condition of enjoyment of the state's educational privileges, which is contrary to the constitutions of both the State of Maryland and the United States.

The petition stated that the federal government has

Nissen Naturalized

Judge Aldrich of the U.S. District Court in Boston granted citizenship to Frederik P. Nissen, of Methuen, Mass., late in November, 1956. In granting the petition Judge Aldrich reversed an earlier decision, entered almost a year ago, in which he denied citizenship to Nissen. Aldrich ruled then that Nissen's objections to war "however conscientious, were self-imposed and self-conceived without the operation of affirmative religious training." The court further held that Congress intended that religious training be "affirmative and purposeful teaching." The Justice Department joined with Nissen in requesting a reconsideration of the petition.

In writing the new opinion Judge Aldrich observed that the courts have been slow to see constitutional questions in the C.O. section of the draft law and that they have been equally slow to attach importance to the requirement of training. The judge stated further that it seemed reasonable to conclude that "so far as Congress was thinking of training it regarded it as meaning no more than individual experience supporting belief; a mere background against which sincerity could be tested."

The court concluded with the statement that "if the purpose is to exempt from military service citizens, or would-be citizens, who have certain religious convictions, the manner in which they attained them is entirely unimportant except insofar as it may assist in ascertaining whether they did."

The court's favorable reconsideration of Nissen's petition brought to a successful conclusion a struggle which began in 1933 when Nissen was first denied citizenship because of his conscientious objections to war. The decision was in harmony with the government's policy of granting citizenship to religious objectors who are willing to take an alternative oath.

recognized Hanauer as a C.O., exempted him from military duty and allowed him to do civilian work under the draft act. Therefore, the University cannot lawfully compel him to take R.O.T.C. taught by Air Force personnel and paid for out of Air Force funds supplied by contract to the University. Hanauer contended that the University was acting arbitrarily, capriciously and illegally by requiring him to take R.O.T.C. when the Air Force has no right to train him.

Hanauer's petition further asked that since he had completed the required two years draft duty that the University accord to him the same exemption granted and

(Continued on page 2)

License Still Denied

The Appellate Division of New York Supreme Court recently upheld a lower court decision denying an insurance broker's license to Henry K. Koster.

Koster, from Brooklyn, N. Y., was denied a license in 1956 by the New York Insurance Department because of his conviction in 1951 for violation of the draft law. Koster had failed to secure a C.O. classification from Selective Service, refused to accept induction and was sentenced to three years imprisonment. He was paroled after serving one year.

Acting under authority of the New York insurance law the Insurance Department refused a license to Koster on the ground that he was not "trustworthy and competent to act as a broker in such a manner as to safeguard the interests of the insured" as evidenced by his draft conviction. Koster argued that the New York insurance law does not require denial of license to anyone convicted, nor does it make a convicted person untrustworthy and incompetent. Koster offered several character references including one from his parole officer and one from his present employer, an insurance broker, as evidence of his trustworthiness and competence.

Earlier the Insurance Department had granted a broker's license to a C.O. However, the examiner is reported to have stated that the present policy of the department is to refuse a license to C.O.'s.

Koster hopes to carry his appeal to the New York Court of Errors and Appeal, the highest court in New York State.

CONTEST ROTC

(Continued from page 1)

enjoyed by others who have completed their draft obligation.

Maryland University is one of several land grant colleges which offers military training to all male students and receives federal funds for the purpose. University regulations provide for compulsory R.O.T.C. with certain exemptions. No exemptions have been granted C.O.'s during recent years. The University contends that exemption from military training is a matter of grace and that it has not abused its discretion in refusing to exempt Hanauer from R.O.T.C.

Pending the decision in the courts the University agreed that Hanauer could continue his studies and he has registered for the spring semester.

Craybill Denied

However, the University refused to grant similar status to Jack A. Craybill, a Brethren C.O., who had completed two years of drafted civilian work before entering Maryland University last fall as a freshman student in the Education College.

Craybill, unlike Hanauer, was not exempted from R.O.T.C. when he registered. He agreed to sign up for the course, but only under protest. The University now contends that he thereby waived his rights to contest the requirement. Craybill is commencing court action.

CCCO has retained Oliver Ellis Stone, Washington, D.C. attorney, to work with Robert B. Myers, Rockville, Md., as attorneys for Hanauer and Craybill. An appeal to higher courts is planned if the Maryland district court denies the petition.

Unfairness to C.O.'s

(Editorial reprinted from the February 11 issue of the DES MOINES REGISTER. Such discriminations referred to herein are not uncommon.)

The State of Iowa Employees Association has wisely stricken from its original draft proposal for a civil service system a provision that would have barred state employment to anyone who ever claimed to be a conscientious objector.

But Iowa law still is based on the view that C.O.'s aren't fit for public employment. The chapter governing civil service in Iowa cities and towns declares:

"In no case shall any person be appointed or employed in any capacity in the fire or police department, or any department which is governed by civil service, unless such a person . . . has not claimed exemption from military service on account of being a conscientious objector."

The Iowa law goes back to the days around World War I. Not many folks, including members of municipal civil service commissions, are even aware of the provision. But it's there. Application forms for municipal employment question applicants on their conscientious objector background.

The Iowa law against hiring C.O.'s also prohibits hiring liquor or drug addicts, those convicted of a felony and anyone who has borne arms against the United States. Conscientious objection to military service hardly belongs in the same category. Federal law recognizes that individuals have a right to request—and receive—exemption from military duty as a matter of conscience. The law provides a special deferment classification, I-O, for C.O.'s. The conscientious exercise of one's belief isn't something to be sneered at and penalized.

The Iowa section barring conscientious objectors from municipal employment is uncalled-for and unfair and should be stricken from the law.

Eichel Appeal Dropped

Plans to appeal the recent conviction of Seymour Eichel, Brooklyn, New York, for draft violation have been dropped. CCCO's Legal Committee concluded that the case presented no opportunity to successfully challenge the Justice Department's position that the requirement to register for the draft is a continuous obligation and that the Federal statute of limitations does not apply to Selective Service obligations.

Eichel was arrested in Brooklyn last June by F.B.I. agents and charged with failure to register for the draft eight years before. Last December, Judge Robert A. Inch sentenced him to serve a year and a day in prison.

Rabbi Isadore Hoffman, of Columbia University; Rowland Watts, ACLU staff counsel; and George Willoughby, CCCO executive secretary were unsuccessful in two efforts to secure an appointment with Judge Inch to present a plea for reduction of Eichel's sentence to time already served. In declining to meet with this committee Judge Inch was reported as saying that he had given Seymour Eichel every chance to register and that he could do nothing more.

Briefly Noted

Isaac M. Burkholder, Lancaster County, Pennsylvania Mennonite C.O., was sentenced by Judge Ganey in U.S. District Court in Philadelphia recently to three months suspended sentence and one year on probation. Judge Welsh sentenced Ammon N. Nolt, another Lancaster Mennonite, to six months imprisonment. Both men were convicted of refusal to do civilian work.

The U.S. Supreme Court recently again refused to review Arthur P. Clark's conviction (See December, 1956 NEWS NOTES) for refusing induction into the army. Clark was denied a C.O. classification by his local board on the grounds that his objections were political and ethical, not religious, in nature. The district court did, however, grant a reduction of sentence, reducing imprisonment from four years to three years. Clark was confined in the Los Angeles jail pending transfer to a federal prison.

CCCO has brought up to date its report on probation sentences granted to C.O.'s convicted of violating the 1948 draft act. Also revised is a similar report listing C.O.'s who received reduced sentences. Mimeographed copies are available upon request without charge.

CCCO has just issued a revised edition of its "Selective Service Law and Procedures, A Guide for Attorneys." The Guide, which contains a list of most Selective Service cases and an outline of the draft law and procedures, is prepared especially for attorneys defending conscientious objectors in court. Copies are available to attorneys without charge.

Vern Davidson, socialist C.O. from Los Angeles, was denied parole on February 7 by the U.S. Parole Board in Washington, D.C. Davidson, now serving a sentence of three years imprisonment at Tucson, Arizona, recently was denied pardon by the U.S. Pardon Attorney on the grounds that since he was still in prison he was not eligible to apply for a pardon. Unless granted parole Vern Davidson will not be eligible for release from Tucson on good time until March, 1958.

FRANKLY STATED

A recent CCCO appeal letter introducing our work to some new contacts brought a few replies indicating that everyone doesn't love us. One lady thinks it a "great pity" we don't concentrate on the type of relief work Quakers are so well known for instead of engaging in such "stupid, unhumanitarian and negative" activities.

Another reader thought our letter was "a hell of a thing to send to a person who, together with four sons, were glad to serve their country in two wars to defend the principles of justice, freedom and democracy. Shame on you and your ilk. You do not deserve to live in this country." No one told us to go back to Russia this time!

Conscription Laws Compiled

At least 51 countries are reported to have some form of conscription for military purposes today, with 21 reporting no conscription, according to the recent special issue of the *War Resister* published by the War Resisters' International in London. The issue contains a seven-page tabulation of existing conscription laws and their provisions for conscientious objectors.

The report reveals that only 16 nations make some legal provision for conscientious objectors. One of these, Israel, exempts only women C.O.'s. Russia is reported as providing for some C.O.'s by administrative measures with legal provisions now under discussion.

Nine of the 16 countries providing for C.O.'s recognize all types of conscientious objectors. They include Austria, Denmark, Finland, Great Britain, Norway, Sweden, West Germany, Australia and New Zealand. Four only recognize religious objectors, as in the United States; and only two countries recognize both religious and moral objectors.

Great Britain and New Zealand provide three alternatives for C.O.'s: total and unconditional exemption; noncombatant military duty, or approved civilian work. Five countries provide total exemption or noncombatant duty. Paraguay offers complete exemption to members of certain religious groups, such as the Mennonites. Seven other countries, including the United States and West Germany, provide only for noncombatant duty or civilian work. Poland makes provision for civilian work in the coal mines.

Of those countries which draft C.O.'s five require them to perform a longer period of service. Only Poland calls for a shorter period — 20 months in the coal mines against 26 months in the army. Conscription for C.O.'s ranges from a minimum of 158 days in New Zealand to a maximum of 30 months duty in the Netherlands.

The United States law provides the heaviest penalties for violations—up to five years imprisonment and/or \$10,000 fine for each offense.

CCCO has a limited supply of this pamphlet available to those requesting copies.

Second Prosecution Begun

Navab Shah, honor student of Central State College in Wilburforce, Ohio was arrested February 7 by federal agents and charged with failure to accept induction into the army. Shah, whose home is in Detroit, is a Muslim. He is opposed on grounds of religious conscience to conscription and war. When arrested, he was still on parole from an earlier sentence of five years imprisonment for refusing to register. He served 20 months of this sentence at the Federal Correctional Institution in Ashland, Kentucky.

Shah was not able to raise the \$3,000 bail and was being held in the jail at Wilburforce as this was being written. Ralph Templin, sociology professor at the college, and others were endeavoring to obtain Shah's release to enable him to continue his studies without interruption.

THE COURT REPORTER

I PROSECUTIONS

Sentenced since last issue

- 1 - 57 Isaac M. Burkholder, 90 days suspended sentence and 1 year on probation, (Philadelphia) Judge Ganey
- 1 - 57 Ammon N. Nolt, 6 months, (Philadelphia) Judge Welsh

Sentence reduced

- 1 - 57 Arthur P. Clark, from 4 years to 3 years, (Los Angeles) Judge William C. Mathes

Appeals

- ? Arthur P. Clark, petition for rehearing denied by U.S. Supreme Court

Indictment dismissed

- 9 - 56 Reinhold Abele, (St. Louis)

Arrests

Ohio—Navab Shah

(All prosecutions for refusal to report for or submit to induction unless otherwise noted.)

II RELEASED FROM PRISON

(None reported since January-February issue.)

III MEN CURRENTLY IMPRISONED

Danbury, Conn.—Aaron W. Hoover

Federal Detention Headquarters, New York City—Seymour Eichel

Mill Point, W. Va.—Enos Yoder, Levi Lehman, Abraham Bontrager, Marvin J. Kein

Springfield, Mo.—Ronald Hertlein

Tucson, Ariz.—Vern Davidson, Nick Kaline

Institution not verified—Ray Stauffer Bauman, Arthur P. Clark, Ammon N. Nolt

Total number of C.O.'s convicted since 1948 to date: 319. (This is a minimum number; J.W.'s and Muslims are not included, and we miss a few.)

Injunction Stays Induction

The United States Court of Appeals for the Sixth Circuit last October enjoined the induction of a selective service registrant who had been denied due process by his draft board.

Hayden Townsend, from Kentucky, had a dependency deferment because he was the father of two small children. After Townsend and his wife separated he was promptly reclassified I-A by his local board. Several weeks later Townsend and his wife were reconciled and he returned to his home and family. He immediately visited the chairman of his draft board and orally notified him of the reconciliation. The draft board failed to change Townsend's classification, ignored his requests for appeal and ordered him inducted. Townsend's request for an injunction was denied by the U.S. District Court and he appealed to the Circuit Court.

J. B. Tietz, prominent Los Angeles attorney specializing in selective service law, believes that this decision is of great importance to conscientious objectors as well as others aggrieved by an action, or inaction of draft officials. Tietz emphasized that this is the first time an injunction action against a local board has succeeded. He suggested that this feature may make the case a forerunner of a new line of defense for conscientious objectors. The courts have consistently held that a C.O. must exhaust the administrative process and go up to the point of induction before he can contest in court the decision of any local board.

THE FRIENDLY SORT

We often have been critical of draft boards, many of which go out of their way to make life difficult for the C.O. We are more than glad to report when a local board really is helpful. Some weeks ago a C.O. reported that he was able to borrow a copy of the **Handbook for Conscientious Objectors** from his board while he ordered one from CCCO.

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